

CLERK US DISTRICT COURT
NORTHERN DIST. OF TX
FILED

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
AMARILLO DIVISION

2017 OCT 10 PM 2:36

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UNITED STATES OF AMERICA

v.

No. 2:17-MJ-100

JUAN MARTINEZ (02)

MOTION FOR PRETRIAL DETENTION AND CONTINUANCE

The United States asks for the pretrial detention of Defendant under Title 18, United States Code, Sections 3142(e) and 3142(f).

1. Eligibility of Case. This case is eligible for a detention order under 18 U.S.C. § 3142(f) because it is a case that involves:

- A crime of violence as defined in 18 U.S.C. § 3156(a)(4). (18 U.S.C. § 3142(f)(1)(A)).
- An offense for which the maximum sentence is life imprisonment or death. (18 U.S.C. § 3142(f)(1)(B)).
- Controlled substances offense for which the maximum sentence is 10 years or more. (18 U.S.C. § 3142(f)(1)(C)).
- A felony that was committed after the defendant had been convicted or two or more prior federal offenses described in 18 U.S.C. § 3142(f)(1)(A)-(C), or comparable state or local offenses. (18 U.S.C. § 3142(f)(1)(D)).
- A serious risk defendant will not appear. (18 U.S.C. § 3142(f)(2)(A)).

Factual predicate in support of this ground: The defendant is illegally in the United States.

A serious risk defendant will obstruct or attempt to obstruct justice, or threaten, injure or intimidate, or attempt to threaten, injure, or intimidate a prospective witness or juror. (18 U.S.C. § 3142(f)(2)(B)).

Factual predicate in support of this ground:

- A felony that involves a minor victim in a qualifying offense or failure to register as a sex offender. (18 U.S.C § 3142(f)(1)(E)).
 - A felony that involves the possession or use of a firearm or destructive device, or any other dangerous weapon. (18 U.S.C § 3142(f)(1)(E)).
2. **Reason for Detention.** The Court should detain defendant, under 18 U.S.C. § 3142(e), because no condition or combination of conditions will reasonably assure:
- Defendant's appearance as required.
 - Safety of any other person and the community.
3. **Rebuttable Presumption.** The United States will invoke the rebuttable presumption against defendant under 18 U.S.C. § 3142(e).
- The presumption applies because:
- Probable cause to believe defendant committed 10 + year drug offense or firearms offense, 18 U.S.C. § 924(c). (18 U.S.C. § 3142(e)).
 - Previous conviction for "eligible" offense committed while on pretrial bond. (18 U.S.C. § 3142(e)(1)-(3)).
 - Probable cause to believe defendant committed a federal crime of terrorism as defined by 18 U.S.C. §2332b(g)(5). (18 U.S.C. § 3142(e))
 - Probable cause to believe defendant committed a qualifying offense involving a minor victim. (18 U.S.C. § 3142(e)).
4. **Time for Detention Hearing.** The United States requests the Court conduct the detention hearing:
- At first appearance.
 - After continuance of three days.
 - After continuance of 10 days under 18 U.S.C. § 3142(d).
 - Moot at this time as defendant is in state custody. Hearing requested if detention becomes a viable issue.

Grounds for 10 day continuance:

The defendant is, and was at the time the alleged offense was committed:

- on release pending trial for a felony under Federal, state, or local law;
- on release pending imposition or execution of sentence, appeal of sentence or conviction, or completion of sentence, for an offense under federal, state, or local law;
- on probation or parole for an offense under federal, state, or local law; or
- is not a citizen of the United States or lawfully admitted for permanent residence as defined at 8 U.S.C. § 1101(a)(20); and the defendant:
 - may flee; or
 - pose a danger to any other person or the community.

Dated this 10th day of October, 2017.

Respectfully submitted,

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